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**UNITED STATES DISTRICT COURT
 FOR THE CENTRAL DISTRICT OF CALIFORNIA**

THE NEXT VIETNAM PROJECTS
 FOUNDATION, INC.; RADIX
 FOUNDATION A/K/A VIETNAM
 VETERANS FOR FACTUAL HISTORY;
 SAIGON BROADCASTING
 TELEVISION NETWORK, INC.; MY
 VAN INTERNATIONAL, INC.; NAM
 PHAM; CARINA OANH HOANG; DIEP
 PHAN; TRONG PHAN; SON NGUYEN;
 THANH PHUONG LE and MINH
 NGUYEN,

Plaintiffs,

v.

KOSTER FILMS, LLC; FREDERICK
 KOSTER; BT PRODUCTIONS, LLC and
 BRIAN TOOKER,

Defendants.

FREDERICK KOSTER, an individual,

Counterclaimant,

v.

NEXT VIETNAM PROJECTS
 FOUNDATION, INC., ET AL.,

Counter-Defendants.

Case No. 8:22-cv-02130-JWH-DFM

**PROCOPIO, CORY,
 HARGREAVES & SAVITCH
 LLP'S REPLY IN SUPPORT OF
 ITS MOTION TO SUBSTITUTE**

Date: April 19, 2024
 Time: 9:00 AM
 Room: 9D

District Judge: Hon. John W.
 Holcomb
 Mag. Judge: Hon. Douglas F.
 McCormick

1 Procopio, Cory, Hargreaves & Savitch LLP (“Procopio”) respectfully submits
 2 the following Reply to Defendant Frederick Koster’s (“Defendant”) Opposition to
 3 Procopio’s Motion to Substitute:

4 The Opposition to Procopio’s Motion to Substitute is explicit that Defendant’s
 5 objection is to Plaintiffs’ *choice* of new counsel, and not with the substitution itself.
 6 *See, e.g.*, Opposition at 2 (“Defendant . . . objects to [Kasowitz Benson Torres LLP
 7 (“Kasowitz”)] as the Substitute Counsel for the Plaintiffs . . .”). But Plaintiffs have
 8 a right to their counsel of choice, and it is not for Defendant to question or object to
 9 Plaintiffs’ choice of counsel. *See Cole v. U.S. Dist. Ct. For Dist. of Idaho*, 366 F.3d
 10 813, 817 (9th Cir. 2004) (“Parties normally have the right to counsel of their choice,
 11 so long as the counsel satisfy required bar admissions . . .”). Thus, while Defendant
 12 speculates (without authority) that Kasowitz’s representation of Plaintiffs creates an
 13 alleged conflict of interest because Plaintiff Ms. Minh Nguyen is an attorney at
 14 Kasowitz, even if there is such a conflict, it is up to Plaintiffs to raise it, not
 15 Defendant.¹

16 Defendant also argues that he will be prejudiced by the substitution of
 17 Kasowitz if Kasowitz is representing Plaintiffs on a reduced-fee or *pro bono* basis.
 18 While Defendant seems to think there is something nefarious about *pro bono*
 19 representation, he provides no authority for his argument. It is of course routine for
 20 parties, particularly not-for-profit entities like Plaintiff The Next Vietnam Projects
 21 Foundation, to be represented on a *pro bono* basis. Kasowitz’s *pro bono*
 22 representation of Plaintiffs may thwart Defendant’s strategy of draining Plaintiffs’
 23 coffers by imposing unnecessary litigation costs upon them. But that is not
 24 prejudice.

25 Defendant’s Opposition further contends that he will be prejudiced because

26
 27 ¹ Defendant also baselessly speculates that not all Plaintiffs may have been informed of the
 28 substitution of counsel. This is directly contradicted by the record. *See* Declaration of Jacob
 Poorman in Support of Motion to Substitute at ¶ 2 (Dkt. No. 108).

substitution may cause delay in the prosecution of this case. It is Defendant, however, who has delayed this litigation at every turn, by, among other things:

- evading service and forcing Plaintiffs to serve him via publication;
- repeatedly seeking extensions (most of which Plaintiffs agreed to as a matter of courtesy);
- refusing to drop frivolous counterclaims, forcing Plaintiffs to file an unnecessary, extensive motion to strike, and then amending his counterclaims to drop most of the frivolous ones; and
- serving blanket, stale objections to Plaintiffs' requests for production, approximately two months after they were due.

Defendant, having repeatedly delayed the progress of this litigation, should not now be heard to complain that substitution will cause delay.²

For the foregoing reasons, and those articulated in the Motion to Substitute (Dkt. 108), Procopio respectfully requests that this Court allow Kasowitz to substitute in as counsel for Plaintiffs in this matter, and allow Procopio to withdraw from its representation of Plaintiffs in this matter.

DATED: April 5, 2024

PROCOPIO, CORY, HARGREAVES &
SAVITCH LLP

By: /s/ Jack Shaw
Jacob K. Poorman
Jack Shaw

Attorneys for Plaintiffs

² Although not directly pertinent to the Motion to Substitute, Procopio notes that Defendant's statement that Procopio objected to "every one" of the interrogatories Defendant served on Plaintiffs is false. *See* Opp. at 3. Plaintiffs provided written responses to over sixty (60) of Defendant's interrogatories. *See* Supplemental Poorman Declaration, Exs. 1-10. Similarly, Defendant's statement that Procopio "neglected to set deposition dates" (Opposition at 3) is contradicted by his own filing. An exhibit attached to the Opposition shows that Plaintiffs did offer dates for the deposition of Plaintiff Mr. Pham, to which Defendant never responded.